

IOWA DEPARTMENT OF NATURAL RESOURCES

IN THE MATTER OF:**JON MATTESON****OPERATOR CERTIFICATE No. 3863**

**ADMINISTRATIVE CONSENT
ORDER
2007-WW- 19**

TO: Jon Matteson
116 Ann St.
Thor, IA 50591

I. SUMMARY

Jon Matteson is the operator in charge for the City of Thor public water and wastewater system. He holds a Grade 1 operator certification, number 3863, for public water system treatment, distribution and wastewater lagoon treatment systems. Under the terms of this consent order, Jon Matteson agrees that he and his operator certification for Grade 1 wastewater lagoon treatment shall be placed on probation for a period of 12 months. Violation of the terms of probation may result in further disciplinary action.

Jon Matteson agrees to pay a penalty of \$750 by check made payable to the "Iowa Department of Natural Resources" no later than November 2, 2007.

Any questions regarding this notice should be directed to:

Relating to Technical Issues:

Jeffrey Vansteenburgh
Field Office 2, Supervisor
Iowa Department of Natural Resources
2300 15th St., S.W.
Mason City, IA 50401
Tel. No. 1-641-424-4073

Relating to legal issues:

David Wornson, Attorney
Iowa Department of Natural Resources
Henry A. Wallace Building
Des Moines, Iowa 50319-0034
Tel. No. 1-515-242-5817

II. JURISDICTION

The Iowa Department of Natural Resources (Department) is taking this action pursuant to the authority granted in Iowa Code section 455B.219 and Iowa Code sections 272C.3 & 272C.10 and 567 Iowa Administrative Code (IAC) 81.17.

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III. STATEMENT OF FACTS

1. Jon Matteson currently holds a Grade 1 public water treatment, distribution and waste water lagoon treatment operator certificate number 3863. Mr. Matteson qualifies for and is the "operator in charge" and in "direct responsible charge" as defined in 567 IAC 81 for the operation of the City of Thor's public water system and waste water treatment system. Mr. Matteson's operator certificate expires June 30, 1999 unless renewed.
2. The City of Thor's public water treatment and distribution system is classified as Grade 1 and the waste water treatment is a lagoon treatment system classified as Grade 1. The City of Thor discharges wastewater under an NPDES permit #4680001.
3. As the result of facility inspections and Department review of monthly operation reports (MORS), the Department has documented a recent history of untimely, incomplete and in some cases inaccurate record-keeping and facility operation deficiencies in violation of Department rules and the City of Thor's NPDES permit conditions.
4. As the result of an April 15, 2002 inspection, the Department found and noted in the inspection report that Mr. Matteson had incorrectly reported pre-drawdown test results as effluent results.
5. A notice of violation (NOV) dated July 30, 2003 found that Mr. Matteson was not properly monitoring wastewater discharges in May of 2003. The notice finds that pre-discharge sample results were being incorrectly represented as actual discharge results and that third-day samples had not been taken.
6. By letter dated February 5, 2004, the Department inspector notified Mr. Matteson that 11 consecutive MORs had been submitted late. A second notice to Mr. Matteson dated August 31, 2004 documented late MOR submittals for several additional months.
7. An inspection report dated March 24, 2006 submitted to the City of Thor noted that Mr. Matteson had been recording the third-day sample results in the first day of drawdown on MORs. The report noted that 13 of the past 18 MORs had been submitted after the 15th of the month following the reporting month.
8. The Department sent notices of violation dated May 9, 2006 and June 8, 2006 to Mr. Matteson with findings of late submittal of MORs.
9. The Department's inspection report dated July 19, 2007 found that 12 of 16 MORs reviewed were submitted late. The report also found that Mr. Matteson reported taking influent flow measurements two to three times per week whereas the NPDES permit requires daily monitoring. The records showed that two of three wastewater discharge events were improperly reported and the June 2007 discharge was not reported.

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IV. CONCLUSIONS OF LAW

1. Iowa Code sections 455B.212, 213(1) and Iowa Code section 272C.1(6)"x" authorize the Director of the Department to adopt rules establishing water treatment and water distribution certification programs. In addition, Iowa Code section 455B.219 and Iowa Code sections 272C.3 and 272C.10 authorize the Department to establish criteria for taking disciplinary actions and a range of sanctions that may be imposed including but not limited to suspension and revocation of operator certifications and assessment of civil penalties. The Environmental Protection Commission has adopted rules establishing the certification programs and providing for disciplinary actions. See chapter 567 IAC 81.

2. Iowa Code sections 455B.219, 272C.10 and Department sub-rule 567 IAC 81.17(1) specifies criteria which may form the basis for a disciplinary action. Disciplinary action may include probation, requirements for additional education, training and examination, suspension, revocation and assessment of civil penalties up to \$1,000. See Iowa Code section 272C.3(2)(c) and 567 IAC 81.17(2). Under 567 IAC 81.17(1), the criteria for disciplinary action includes the following:

- a. Failure to use reasonable care or judgment or to apply knowledge or ability in performing the duties of a certified operator. ...
- b. Failure to submit required records of operation or other reports required under applicable permits or rules of the Department, including the failure to submit complete records or reports.
- c. Knowingly making any false statement, representation, or certification on any application, record, report or document required to be maintained or submitted under any applicable permit or rule of the Department.
- d. Fraud in procuring a license.
- e. Professional incompetence.
- f. Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of the licensee's profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.
- g. Habitual intoxication or addiction to the use of drugs.
- h. Conviction of a felony related to the profession or occupation of the licensee. A copy of the record of conviction or plea of guilty shall be conclusive evidence.
- i. Fraud in representations as to skill or ability.
- j. Use of untruthful or improbable statements in advertisements.
- k. Willful or repeated violations of the provisions of Iowa Code chapter 272C or 455B, division III.

4. The Department finds that Mr. Matteson has demonstrated a pattern of neglect due to his failure to submit timely and accurate MORs in violation of 567 IAC 81.17(1)"a" & "b" and sufficient to warrant disciplinary action as provided in 567 IAC 81.17(2).

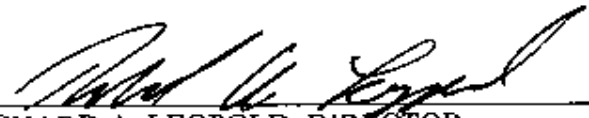
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V. TERMS AND CONDITIONS

1. Jon Matteson agrees that he and his operator certification for waste water lagoon treatment shall be placed on probation for a period of 12 months beginning October 1, 2007.
2. The Department agrees to remove the probation effective November 1, 2008 on the condition that Mr. Matteson submits timely, complete and accurate MORs in compliance with Department rules and the terms of the City of Thor's NPDES permit during the period of probation.
3. Should the Department find that Mr. Matteson has not substantially complied with the terms and conditions of this order, the Department reserves all right and discretion to initiate further disciplinary action as provide by law.
4. Jon Matteson agrees to pay a penalty of \$750 by check made payable to the "Iowa Department of Natural Resources" no later than November 2, 2007.

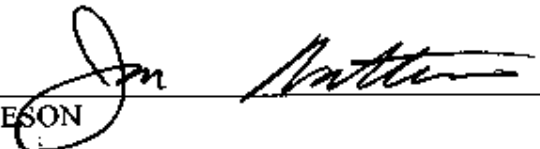
VI. APPEAL RIGHTS

By signing this consent order, Mr. Matteson knowingly and voluntarily agrees to waive all right to appeal or contest the terms of this consent order as provided in Iowa Code section 17A.18, Iowa Code section 455B.219, Iowa Code sections 272C.4 and 272C.6 and Department rules in 567 IAC 81.17(3).



RICHARD A. LEOPOLD, DIRECTOR
IOWA DEPARTMENT OF NATURAL RESOURCES

Dated this 19 day of
October, 2007



JON MATTESON

Dated this 4th day of
December, 2007

Operator certification no. 3863, Laurie Sharp, field office 2, David Wornson, Barb Lynch, I(D) & II(D).